IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 1452/2006
(Ram Singh & Anr. Vs. State of Rajasthan)

Date of Order : 15/11/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Haider Agha for the petitioners.
Mr. Ashok Upadhyay, public prosecutor for the State.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioners seek quashing of proceeding in Criminal Case No.74/06 pending in the Court of Judicial Magistrate No.2, Jodhpur (for short 'the trial court' hereinafter) on the ground that the parties have compromised the matter and a compromise was filed before the trial court. But the trial court did not accept the compromise on the ground that the offence is not compoundable.

Both the petitioners are present in the Court and submit that they are husband and wife and have resolved their dispute amicably. There had been some misunderstanding between them and subsequently it has been sorted out and now there remains no dispute between them and have started living together as husband and wife under one roof and are leading a

peaceful life, therefore, the petitioner No.2 Smt. Kiran who is wife of petitioner No.1, submits that she does not want to prosecute the case instituted by her against her husband and they may be permitted to compound the offence and by compounding the offence the proceedings may be quashed. They have filed a compromise before this Court also which is on record.

In B.S.Joshi and Others Vs. State of Haryana and Another (2003) 4 SCC 675, Hon'ble Supreme Court held that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing. Thus, the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 Cr.P.C. Hon'ble Supreme Court further held that in the instant case, the wife filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. In such eventuality, there would almost be no chance of conviction. So it would not be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences. Hon'ble Supreme Court further held that non-exercise of inherent power to quash the proceedings to

meet the ends of justice would prevent women from settling earlier and that would be against the object of S.498-A.

Keeping in view, the decision of Hon'ble Supreme Court in B.S.Joshi and Others Vs. State of Haryana and Another (supra) and the fact that the parties have resolved their dispute amicably and petitioner No.2 complainant in the case states that she has received her dowry articles and resumed the matrimonial home and now both the petitioners are living together under one roof and leading a peaceful life and she does wish to prosecute her husband in the proceedings initiated by her, in my view, no useful purpose would be served to allow such a proceeding in which no evidence is likely to come against the petitioner No.1 who is facing trial and to allow the proceeding to continue any more would be nothing but an abuse of the process of the Court and therefore, to secure the ends of justice, the proceeding against the petitioner No.1 deserves to be quashed on being compounded by petitioner No.2 complainant.

In the result, the criminal misc. petition is allowed. The criminal proceeding in Criminal Case No. 74/06 pending before Judicial Magistrate No.2, Jodhpur against the petitioner No.1 stands quashed.

(H.R.PANWAR),J.

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